

Applicants: Helge Ahrens et al.
Application No. 09/955,852
Response to Office Action dated June 4, 2004

REMARKS

Applicants respectfully request reconsideration and allowance of this application in view of the following comments.

Claims 2 and 4-12 are pending. Claims 4 and 11 have been amended to better clarify the instant invention to show the relationship of the carrier film to the adhesive layer. Claim 9 has been amended in response to the rejection under 35 U.S.C. 112, second paragraph.

Double patenting

The Examiner rejected claims 2, 4-12 under the doctrine of obviousness-type double patenting as being unpatentable over claims 7, 9-13 of pending application no. 09/951,089. In response, a terminal disclaimer is submitted herewith in a separate paper.

Rejections under 35 U.S.C. 112

The Examiner rejected claims 9 and 12 under 35 U.S.C., second paragraph, as being indefinite. The Examiner found the claims vague as not reciting the position of the adhesive rejecting material in relation to the other layers. In response, Applicants submit claim 9 has been amended to better clarify the relationship of the adhesive rejecting material to the other recited elements.

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In view of the foregoing, Applicants submit that the Examiner would be fully justified to reconsider and to withdraw the rejection. An early notice that this rejection has been reconsidered and withdrawn is, therefore, earnestly solicited.

Rejections under 35 U.S.C. 102

The Examiner rejected claims 2, 4, 7, 10 and 11 under 35 U.S.C. 102(b) as being anticipated by Hansen (U.S. Patent No. 4,377,159). The Examiner found Hansen to teach a pressure bandage for wounds comprising a carrier tape uniformly covered by a pressure sensitive adhesive layer having a prism-shaped section which is beveled adhered thereon.

In response, Applicants would remind the Examiner that anticipation requires that each and every element as set forth in the claim must be found, either expressly or inherently described, in a single prior art reference, and, further, that the absence in the prior art reference of even a single claim element precludes a finding of anticipation. See MPEP §2131; See also *In re Robertson*, 49 USPQ2d 1949, 1950-51 (Fed. Cir. 1999). Applicants submit Hansen does not teach an adhesive layer that surrounds the polyurethane matrix as required by the instant claims, which recites, in part: "the adhesive layer surrounds and extends outwardly beyond the polyurethane matrix". This is further exemplified by Figures 3-5 in the instant specification. Hansen teaches at claim 1 a "layer of pressure-sensitive adhesive on one surface of said backing" and a "prism-shaped section...attached to said carrier tape by said pressure-sensitive adhesive", but the reference contains no teaching of an adhesive layer which surrounds the

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prism-shaped section. Figure 1 in Hansen is believed to show adhesive applied to only one face of the prism-shaped section, and does not teach the adhesive to be applied to any of the other faces thereof in order to show an adhesive layer which surrounds a polyurethane matrix. Accordingly, Applicants submit claims 2, 4, 7, 10 and 11 are not anticipated by Hansen.

In view of the foregoing, Applicants submit that the Examiner would be fully justified to reconsider and to withdraw the rejection. An early notice that this rejection has been reconsidered and withdrawn is, therefore, earnestly solicited.

Rejections under 35 U.S.C. 103

The Examiner rejected claims 5, 9, 12 under 35 U.S.C. 103(a) as being obvious over Hansen in view of Samuelsen (U.S. Patent No. 4,867,748). The teaching of Hansen was discussed above. The Examiner concedes Hansen does not teach a material for the carrier film or the cover of siliconized paper. The Examiner found Samuelsen to generally teach a wound dressing comprising a sealing pad that is beveled along its outer edge in its thickness. The Examiner ultimately concluded it would have obvious to provide a wound dressing as contemplated by Hansen and to select the material for the cover layer and the cover allegedly taught in Samuelsen into Hansen to obtain the instant invention.

Claims 6 and 8 are also rejected as being obvious over Hansen. The teaching of Hansen was discussed above. The Examiner found it would have obvious to adjust the

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thickness of the different layers to obtain the instantly claimed parameters of the instant invention.

In response to both rejections, Applicants submit there must be some suggestion or motivation, either in the reference or knowledge generally available to a person skilled in the art to modify the teaching of the reference. See *MPEP* §2143. Regarding claims 5, 9 and 12, Applicants submit because the limitations of the base claims are incorporated into the dependent claims by reference, the limitations of claims 4 and 11 cannot be met by the allegations made by the Examiner when there is no suggestion for an adhesive layer that surrounds the polyurethane matrix as required by the instant claims. Regarding claims 6 and 8, Applicants point out that because the limitations of the base claims are incorporated into the dependent claims by reference, the limitations of claims 4 and 11 as discussed above cannot be met by the allegations made by the Examiner when absent a suggestion thereof. Wherefore, the claims are not rendered obvious by the cited references.

Conclusion

Applicants believe that the foregoing constitutes a bona fide response to all outstanding objections and rejections.

Applicants also believe that this application is in condition for immediate allowance. However, should any issue(s) of a minor nature remain, the Examiner is respectfully requested


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to telephone the undersigned at telephone number (212) 808-0700 so that the issue(s) might be promptly resolved.

Early and favorable action is earnestly solicited.

Respectfully submitted,

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